



DEPARTMENT OF THE ARMY
HEADQUARTERS, U.S. ARMY ARMOR CENTER AND FORT KNOX
FORT KNOX, KENTUCKY 40121-5000

Expires 11 April 2004

REPLY TO
ATTENTION OF:

ATZK-CP (690-500)

11 April 2002

MEMORANDUM FOR

Commanders, All Units Reporting Directly to This Headquarters
Directors and Chiefs, Staff Offices/Departments, This Headquarters

SUBJECT: USAARMC Policy Memo No. 5-02 – Overtime Pay and Compensatory Time Off

1. References.
 - a. Fort Knox Pamphlet 690-4, Civilian Personnel Handbook, 26 June 1996, Chapter 3.
 - b. 5 Code of Federal Regulations, Parts 532, 550 and 551.
2. Overtime work can cause significant increases in operational costs if not properly managed and controlled. This can be in terms of direct dollar outlay when hours are paid at overtime/premium pay rates, or in lost productivity when hours are taken as compensatory time off. In addition, improper use or lack of supervisory controls can cause employee discontent, grievances or complaints, and perceptions of fraud and waste – none of these can be tolerated.
3. It is every supervisor's responsibility to know and understand the laws, rules, and regulations that pertain to overtime. It is equally important to know and follow the administrative procedures required for documentation and approval. The purpose of this memorandum is to provide clarification and a refresher on these rules and procedures.
4. First, it is important to note that there are two main categories of employees whose overtime compensation entitlements are vastly different:
 - a. There are those who are "nonexempt" from the Fair Labor Standards Act (FLSA) – this group includes all Wage Grade (WG) employees and General Schedule (GS) employees who are generally in clerical or technical occupations and are not supervisors or otherwise exempt from FLSA rules.
 - b. The second category is employees who are "exempt" from the FLSA – this group includes supervisors and managers, those in professional occupations, and those engaged in administrative work that supports formulation or execution of management policies.
 - c. The determination of exempt and nonexempt is made during the position classification process and is annotated on the employee's official position description. It can also be found in Block 35 of the Standard Form 50, Notification of Personnel Action.

5. Exempt employees have fewer entitlements to overtime compensation than do nonexempt employees. For an exempt employee to receive compensation for overtime hours, the work has to be officially ordered and approved in advance. Even for emergency situations many times there are pre-positioned written approvals authorizing overtime when certain events/conditions occur. Note that the definition for overtime work includes both extra hours for which premium pay is being requested (at overtime or holiday rates) and it includes extra hours for which compensatory time credit is being requested. Failure to obtain advance approval for the non-emergency overtime (pay or comp hours) will generally result in disapproval of an after-the-fact request for compensation. Exempt employees who work through lunch, before or after duty hours, or on regular days off, are not entitled to compensation for those hours unless they were officially ordered to perform the work and received approval in advance for overtime compensation (either in the form of pay or comp hours).

6. In contrast, nonexempt employees accrue overtime entitlements if they work extra hours on their own accord and the supervisor is aware the work is occurring but does nothing to direct the employee to stop. This is commonly referred to as “suffer and permit” rules that only apply to nonexempt employees. Supervisors of nonexempt employees need to be aware of this distinction and ensure that unauthorized overtime work (by nonexempt employees) is not allowed to continue without proper approval, documentation, and compensation.

7. All overtime work for which premium pay is requested will be documented and approved on FK Form 838-E, Request for Paid Overtime/Holiday Pay. This form will include a complete description of the reason(s) overtime work is necessary, the type of work that will be performed, the beginning and ending dates of the overtime period, the estimated overtime hours to be worked by each person (by-name list), and the individual and total estimated cost of all overtime hours. The form will be signed and approved by the Commander, Director, or Staff Office Chief and coordinated with the appropriate DRM budget analyst before the overtime hours being worked. Emergencies that do not allow advance preparation and signature on the form will be documented after-the-fact as soon as possible but no later than the end of the pay period. In cases where the overtime request includes work to be performed by the Director or Chief of the organization, the form will be completed as described above, but will be sent to me for signature and approval. A copy of all approved overtime forms will be maintained with the organization’s time and attendance files and will be subject to annual audit by the Internal Review and Audit Compliance (IRAC) office.

8. Compensatory time-off in lieu of overtime premium pay is generally authorized only for irregular and occasional overtime work. An exception applies to employees on flexible work schedules who may elect compensatory time-off for regularly scheduled overtime work. In all cases, the supervisor must give advance approval to work overtime hours for compensatory time-off. Before approving or ordering comp time, supervisors should consider the reason(s) overtime work is necessary, the type of work to be performed, the beginning and ending dates of the overtime period, and the estimated overtime hours (for which comp time credit is requested) per

person (by-name list). Failure to obtain advance approval for the non-emergency overtime (comp hours) will generally result in disapproval of an after-the-fact request. The election of comp time (in lieu of premium pay) for approved overtime work is generally an employee option. Exempt employees whose pay exceeds the rate of a GS-10 step 10 can be directed to accept comp time in lieu of payment at the overtime rate; nonexempt employees however (and exempt employees whose pay does not exceed the GS-10 step 10 rate) have the option of choosing comp time or receiving payment for approved overtime hours.

9. Once approved, comp time balances will be closely monitored to ensure the time is used within 26 pay periods (52 weeks) of the date earned. Failure to use the accrued comp time within this period will result in automatic payment of the hours at the overtime/premium pay rates that were applicable at the time the hours were earned. Pay out of “aged comp time” should only be allowed to occur in rare circumstances. One control measure that should be employed is the scrutiny of the initial request for comp time to determine if overtime/premium pay would be more appropriate up front, or if the request fully meets the criteria that warrants approval. Once approved, continuous monitoring should occur to ensure that comp time balances don’t grow so large that they cannot be used within a year and that employees are requesting and scheduling the comp time in reasonable periods before the pay out date arrives. In those rare circumstances where payment of “aged comp time” cannot be avoided, the reasons therefor will be documented and submitted on FK Form 838-E. This form will be prepared once it is known that the pay out of aged comp time is going to occur (no later than the end of the 24th pay period). Information contained on the form will include the number of hours that will be paid at overtime rates, the date the comp hours will convert to pay, the reason or type of work performed that warranted approval of the comp time hours, and the reason(s) comp time off could not be allowed in the preceding 24 pay periods or in the remaining 2 pay periods before the comp time converts to overtime pay (at the end of the 26th pay period). The FK Form 838-E will be submitted through supervisory channels, coordinated with the appropriate DRM Budget Analyst and signed/approved by the commander/director/chief of the organization. In cases when the “aged comp time” pay out involves the director/chief, the form will be submitted to me for approval. A copy of the signed FK Form 838-E will be maintained with the organization’s time and attendance files and will be subject to annual audit by the IRAC office.

10. In situations where employees have “flexible” work schedules, the accumulation of “credit hours” may be an option in lieu of overtime pay or compensatory time. A “flexible” work schedule is a tour of duty consisting of core hours and flexible bands during which starting and quitting times may be adjusted. Core hours are defined during which the employee must be present at work, along with flexible bands before and after the core hours when the employee may start or stop work. If more than 8 hours are worked in a single day, the employee accumulates “credit” hours that can be used later during the pay period as time off. If the employee does not use the accumulated credit hours during the same pay period in which they were earned, a maximum balance of 24 credit hours can be carried from one pay period to the next. All credit hours in excess of 24 are lost if not used. Note that flexible work schedules are

subject to supervisory approval and must be in accordance with the organization's negotiated agreement with the union.

11. Before approving overtime (whether requested as premium pay or comp time hours) supervisors should always consider less costly alternatives. For example, when the work requirement is known in advance and involves timing rather than volume, consideration will be given to temporarily changing an employee's tour of duty. This could occur when a requirement arises to have someone work on a weekend or on an employee's regular day off (compressed schedule). If the requirement can be met by temporarily changing the employee's work schedule, that should be pursued in lieu of overtime compensation. When volume of work is causing the need for overtime, the number and types of employees needed to perform the work should be closely evaluated to ensure that only those truly essential to performing the work at hand are ordered/approved for overtime work. For example, supervisory personnel shouldn't be automatically authorized for overtime just because some of their employees are required to work overtime hours. Depending on the nature and type of work, a supervisor may not be required to be present while employee overtime work is being performed. Another factor to consider is the scheduling of annual leave. The approval of annual leave during periods when overtime is being worked should be closely scrutinized. An employee on leave should generally not cause additional overtime requirements. Exceptions include 24-hour operations when every employee absence must be covered.

12. An additional consideration in approving overtime work is whether substantive work is actually being performed. For example, employee attendance at a social function including a dinner, awards banquet, etc. in an overtime status is not appropriate if the primary purpose is merely being present at the function. The employee's presence must be for the purpose of making an official presentation or performing an official function in an approved status.

13. In addition to the rules and policies already mentioned in this memorandum, supervisors will review the information found at the enclosure to ensure familiarity with other requirements and entitlements pertaining to overtime. Supervisors of bargaining unit employees will also review Article 9 of the Labor Management Agreement and ensure compliance with those procedures when requiring overtime work.

14. In recent weeks it has come to my attention that overtime work is occurring in some areas without proper advance authorization and with less than adequate documentation of the reasons therefor. It is every supervisor's job to manage overtime requirements and costs and to ensure that adequate measures are in place that fully document the mission-essential need that formed the basis for approval. Addressees will be held accountable for the program's adequacy and compliance with procedures explained herein. To assist you in this process, I have directed the IRAC office to monitor the program and provide me with reports on a quarterly basis identifying trends, high cost instances, and potential problem areas. I have also directed the IRAC to conduct an annual audit of overtime usage, to include reviewing the adequacy of documentation

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maintained within each organization, and to provide their report of finds to the Commanding General. Finally, I have directed the CPAC to conduct training for addressees and all supervisors of civilian employees, to ensure there is no misunderstanding on the policies, rules, and laws governing this program.

FOR THE COMMANDER:

Encl



ROBERT T. GAHAGAN

Colonel, GS
Chief of Staff

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OVERTIME

- Civilian employees can be required to work overtime whether they desire to or not. However, management must use common sense, follow the Labor Management Agreement (LMA) and statutory requirements, and use volunteers if available in accordance with the LMA procedures.
- Employees are entitled to overtime compensation for work that is required beyond their basic work requirement:
 - In excess of 8 hours a day or 40 hours a week for an employee on a traditional 8-hour work day.
 - In excess of 10 hours a day or 40 hours a week for an employee on a 10-hour compressed work schedule.
 - In excess of the employee's basic work requirement for other compressed work schedules.
- Overtime must be officially ordered and approved by management. An employee is not entitled to overtime compensation when overtime work is not ordered or approved by management. An exception applies to an employee covered by the Fair Labor Standards Act (FLSA) who performs unapproved overtime work but the supervisor knows or has reason to believe the overtime work is being performed and has an opportunity to prevent the work from being performed. An employee covered by the FLSA is referred to as “nonexempt” and generally occupies a clerical, technical, or craft and trade position. An employee’s FLSA status can be determined by review of block 35 on the most recent Notification of Personnel Action or by review of the employee job description. “Nonexempt” or “N” under FLSA indicates the employee is covered by the FLSA. “Exempt” or “E” indicates the employee is not covered by the FLSA.
- Compensatory time-off may only be granted for irregular or occasional overtime that is required by management, not for scheduled overtime. An exception applies to employees on flexible work schedules who may elect comp time for all overtime work. Compensatory time is considered a form of overtime compensation just like overtime pay. Too often, compensatory time is treated informally, not properly documented or approved, and results in employees being improperly compensated or credited for overtime work.
- Nonexempt employees cannot be directed to elect compensatory time-off in lieu of overtime premium pay for overtime work. It is an employee decision.

Enclosure to memorandum, ATZK-CP, 11 Apr 02, Subject: USAARMC Policy Memo No. 5-02
- Overtime Pay and Compensatory Time Off

- Exempt employees above the grade of GS-10 step 10 may be directed to accept compensatory time off in lieu of overtime premium pay for overtime work that is ordered or approved.
- Earned compensatory time off is carried for a maximum of 26 pay periods (52 weeks). Compensatory time off not used during the 26 pay periods will be automatically paid at the employee's overtime rate (defined below) that was applicable when the overtime work was performed.
- Earned "credit" hours (which can only be accrued if the employee is on a "flexible" work schedule) have a maximum carryover balance from one pay period to the next of 24 hours. Hours beyond 24 (at the end of the pay period) are lost.
- Overtime premium pay for "exempt" employees at or below GS-10 step 1 is 1 ½ times their hourly rate of basic pay.
- Overtime premium pay for "exempt" employees above GS-10 step 1 is 1½ times the hourly rate of basic pay of the GS-10 step 1 rate.
- Overtime premium pay for "nonexempt" employees is 1 times their straight time rate of pay plus ½ times the hourly regular rate determined in accordance with 5 CFR, Part 551.
- Overtime compensation (payment or comp time hours) may be paid or credited in 15-minute increments.
- Both exempt and nonexempt employees who are called back to work must receive a minimum of 2 hours overtime compensation, even if they did not work a full 2 hours.
- Except for emergencies declared by the Head of the Agency (HQDA) or the Office of Personnel Management (OPM), "exempt" employees may receive overtime compensation (either in the form of earned comp time hours or in the form of overtime/premium pay) only to the extent that the payment (or overtime rate value of comp hours earned) when added to the employee's basic pay and other premium pay entitlement does not exceed the maximum rate of a GS-15 for any pay period. Overtime hours that would cause the employee's pay entitlement to exceed this amount are lost and cannot be credited to the employee's account or paid. Note: Because of the events of 11 September 2001, the OPM invoked the emergency clause in the regulations. By so doing, the pay period limitation was replaced with an annual limitation. This means that for the duration of the emergency situation, an exempt employee may receive premium pay (or comp time credit) during a pay period that exceeds the GS-15 step 10 pay period rate; however, the employee's total of basic and premium pay still cannot exceed the annual statutory limit of a GS-15 step 10 rate. At whatever point the employee's premium pay (including value of comp time earned) plus their expected rate of regular pay for the remainder of the year, totals the annual limitation of a GS-15 step 10 rate, the employee would stop receiving any additional overtime compensation.

Overtime for Training:

- The Government Employees Training Act, incorporated into Title 5, generally prohibits the payment of premium pay to employees for time spent in training. The OPM has established some exceptions, but they are few (e.g., results in cost savings or night training that can only be accomplished at night).
- However, there are additional situations under FLSA (that apply to “nonexempt” employees) where overtime for training is appropriate. Training outside regular working hours shall be considered hours of work if (1) the employee is directed to participate in the training by his or her employing agency and failure to participate will adversely affect the employee’s performance or continued retention in his/her current position; (2) the purpose of the training is to improve the employee’s performance of the duties and responsibilities of his or her current position; or (3) the training is required to bring the employee’s performance up to a fully successful or equivalent level.

Overtime for Travel:

- Overtime pay for travel is an area where there is also much confusion and misunderstanding. Many employees think that they are automatically entitled to overtime when they have to travel on their own time (Saturdays, Sundays, Holidays, evenings, or off days) for Tdy or training. This is generally not true.
- All travel during regular hours of work is compensable and is treated as normal duty time. Travel outside regular hours of work is treated differently depending on whether the employee is “exempt” or “nonexempt.” However, the general rule that applies to both types of employees is that travel that is scheduled or administratively controlled by an executive agency of the government is not compensable unless it occurs during regular working hours. In other words, if the employee is traveling to attend an event that was scheduled or controlled by the government, the travel time outside normal work hours cannot be compensated with overtime pay, holiday pay, or comp hours. There are very limited exceptions to this rule the most notable being that “nonexempt” employees are entitled to overtime compensation (pay or comp time) for travel on non-duty time that corresponds to their regular working hours (e.g., a nonexempt employee who regularly works 0800-1630 hours, Monday through Friday, who travels during those same hours (0800-1630) on a Saturday or Sunday, would be compensated for the travel time that falls within those hours).
- Note that this exception only applies to “nonexempt” employees – there is not a similar exception for “exempt” employees.
- More detailed information on overtime is contained in Chapter 3 of the Fort Knox Pamphlet 690-4, Civilian Personnel Handbook and in 5 United States Code (USC) Chapters 53 and 55 and 5 Code of Federal Regulations (CFR Parts 532, 550 and 551. The USC and CFR can be viewed at the OPM web site www.opm.gov under references.